



# **The Commonwealth of Massachusetts**

---

## **DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

TO: D.T.E. 04-33 Service List (via first class mail and email)

FROM: Tina W. Chin, Arbitrator  
Jesse S. Reyes, Arbitrator

DATE: March 10, 2005

RE: Petition of Verizon New England, Inc. d/b/a Verizon Massachusetts for Arbitration of Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Massachusetts Pursuant to Section 252 of the Communications Act of 1934, as amended, and the Triennial Review Order - D.T.E. 04-33

Briefing Questions to Additional Parties

CC: Mary Cottrell, Secretary

---

On March 1, 2005, the Department issued a set of briefing questions to Verizon Massachusetts ("Verizon") and to a list of CLECs, whose interconnection agreements Verizon claims to contain change of law provisions that are self-executing. That is, Verizon claims that, with respect to such interconnection agreements, it had the right to implement changes of law prior to the conclusion of this proceeding. On March 4, 2005, certain CLECs<sup>1</sup> jointly filed a Petition for Emergency Declaratory Relief seeking a declaratory ruling that Verizon may not unilaterally implement the terms of the Triennial Review Remand Order, which is effective on March 11, 2005, and that (1) Verizon must continue to accept orders for UNEs no longer required to be unbundled by the Triennial Review Remand Order under the rates, terms, and conditions of its existing interconnection agreements, and that (2) Verizon must comply with the change of law provisions of its interconnection agreements with regard to implementation of the Triennial Review Remand Order. Verizon filed its Opposition on

---

<sup>1</sup> The petitioners include BridgeCom International, Inc., Broadview Networks, Inc., Broadview NP Acquisition Corp., A.R.C. Networks, Inc. d/b/a InfoHighway Communications Corp., DSCI Corp., XO Massachusetts, Inc., and XO Communications, Inc.. The Department received comments in support of the petition from Covad Communications Company, RNK, Inc. d/b/a RNK Telecom, and PAETEC Communications, Inc.

March 9, 2005, arguing that the FCC established a 12-month transition period beginning on the effective date of the Triennial Review Remand Order, after which date “requesting carriers may not obtain” certain network elements as UNEs. Therefore, Verizon claims that it may implement the Triennial Review Remand Order on March 11, 2005.

Verizon’s claim that it may implement the Triennial Review Remand Order on March 11, 2005, without first negotiating new interconnection agreement terms, potentially affects the rights of all parties to this proceeding, not simply those whose agreements Verizon claims to contain self-executing change of law provisions. Therefore, the Arbitrators issue the following briefing questions to Verizon and to each individual CLEC party that was not already named in Attachment A of the March 1, 2005 briefing questions, so that the Department may consider the issues raised by the CLECs in their Petition for Emergency Declaratory Relief and determine in the final order of this proceeding the applicable rights and remedies of all parties according to their interconnection agreements. Briefs on these questions shall be submitted along with the parties’ briefs on the open arbitration issues. Initial briefs are due April 1, 2005. Reply briefs are due April 15, 2005.

1. Notwithstanding the carrier’s substantive arguments in this proceeding regarding proposed rates, terms, or conditions for any specific service, for each carrier’s individual interconnection agreement, please identify each and every term that is relevant to whether or not the interconnection agreement’s change of law or dispute resolution provisions permit the parties to implement changes of “applicable law” without first executing an amendment to the interconnection agreement. In providing your response, please quote the relevant interconnection agreement provisions, citing them by section, and provide highlighted copies of the relevant language.
2. Indicate whether a change of law or dispute resolution provision has been triggered and state the date on which each condition precedent or party obligation (*e.g.*, notice requirements) was met, if applicable, with regard to the implementation of the Triennial Review Remand Order, or any other statutory, judicial, or regulatory change, state or federal, that you claim did modify the parties’ rights under the interconnection agreement.

Responses to the foregoing questions should also be summarized in tabular form for each individual carrier. Responses for different carriers may be grouped together where the relevant operative provisions of the carriers’ interconnection agreements have identical legal effect.

Finally, please add Jesse Reyes [[jesse.reyes@state.ma.us](mailto:jesse.reyes@state.ma.us)] to your service lists for this proceeding. If you have any questions, please contact Tina Chin at (617) 305-3578 or Jesse Reyes at (617) 305-3735.